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[Hernandez Team] Response to Court Order (Dkt. No. 573)

'Robinson, Amy (LAW)' via Hernandez Team <hernandez@femmelaw.com>

Fri, Jun 3, 2022 at 7:56 PM

Reply-To: "Robinson, Amy (LAW)" <arobinso@law.nyc.gov>

To: Payne Litigation Team <PayneLitigationTeam@nyclu.org>, Sow-Legal <Sow-Legal@blhny.com>, "sierrateam@moskovitzlaw.com" <sierrateam@moskovitzlaw.com>, "GrayLegalTeam@dwt.com" <GrayLegalTeam@dwt.com>, Hernandez Team <hernandez@femmelaw.com>, AG-NYPDLitigation <AG.NYPDLitigation@ag.ny.gov>, wood <wood@klflaw.com>

Cc: NYC Law Protest Team <NYCLawProtestTeam@law.nyc.gov>

Counsel,

Pursuant to the Court's order (Dkt # 573) that defendants provide "a listing of which rows of the Discovery Chart they have reviewed as of that date [June 3] and a listing of any misstatements contained within those rows," defendants respond as follows as to misstatements of which the City is aware:

- *Gray*. All of the *Gray* Document Requests have been reviewed. In response to *Gray*'s First Request for Production of Documents request numbers 1, 3, 4, 7, 8, 11, 12, and the second 30 request, defendants stated in the April 15th Chart that "[r]esponsive documents will be provided prior to the Court-ordered deadline." The documents pertaining to these requests were provided on April 15th and earlier.
- *Sierra*. All but one of the *Sierra* Document Requests has been reviewed. Defendants' response in both the *Sierra* First Set of Supplemental Discovery Requests number 1 and *Sierra*'s Third Set of Supplemental Discovery Requests number 5, stated, "as per agreement of the parties, all Argus footage sought by plaintiffs is in the process of being collected and will be produced forthwith." The Argus footage was not produced by the agreed upon date, however, it has since been produced to plaintiffs on May 27th.
- *People*. All of the *People* Document Requests have been reviewed. Document Request Number 9, states "[p]roduce all documents relating to Kerry Leigh Pittenger and the incident that took place on May 29, 2020, in the Bedford-Stuyvesant neighborhood in Brooklyn, including, but not limited to, TRI reports, summonses, hospital and other medical reports, and any body-worn camera and other video footage from Officers involved in or present at the incident." The Chart initially indicated that defendants conducted a search and could not find BWC, but defendants produced responsive BWC on March 18th, but simply did not update the chart to reflect this.
- *Sow*. Most of the *Sow* Document Requests have been reviewed. In response to Document Request No. 15, 31, 32, the Chart stated, "[a]ny responsive documents to the extent that any exist will be provided prior to the Court-ordered date." However, responsive documents were produced prior to April 15th, 2022.

Document Request No. 30 stated, "[d]efendants object as this request is overbroad, irrelevant, overly burdensome and not proportional to the needs of the case," but some responsive documents were produced prior to and on April 15th.

Document Request No. 20 stated, "Defendants produced documents responsive to this request on March 11, 2022." However, responsive documents were produced both before March 11, 2022 and on March 14, 2022.

- *Payne*. Defendants are continuing to review the *Payne* Document Requests.
- *Consolidated Requests*. All of the Consolidated Requests continue to be reviewed. In response 1-2, 4, 7-11, 13-14, 16, 18-21, 24-26, 30-36, 38, 41-42, 49-50, 52-53, 56, 64, 70-76, 83, 89, 90, 95-96, 98-99, defendants stated on the April 15th chart that responsive documents would be provided by the "court-ordered deadline," by the "court-ordered date," or "by April 15th." Documents were produced by April 15th.

Document Request No. 8 states in part that, "defendants have already produced all body-worn camera ("BWC") videos recorded by officers in connection with the events alleged by each of the consolidated plaintiffs . . ." The BWC footage for approximately three Bike Detail officers at the June 4, 2020 protest were not produced as of April 15, 2022, but have since been produced.

Document Request No. 36 refers to the CJB Lieutenant as Stephen Czark; the Lieutenant's name is Christopher Czark.

Document Request No. 51 is revised to state that defendants will not produce HIPAA releases.

Document Request Numbers 52, 53, 56, 75, 76, 82, 88, 89 and 90 are being revised to no longer indicate that documents are being processed and/or that searches are continuing.

Document Request Numbers 63, 67, 70, 71, 83, 84, 92, 95, 96 and 99 are being revised to no longer indicate further searches are being made.

Document Request Numbers 64, 66, 81, 87 and 100 are being revised to no longer indicate further searches are being made.

Pursuant to defendants' letter dated May 18, 2022, defendants agreed to provide Bates numbers for Document Request Nos. 2, 3, 4, 12, 39, 40, 41, 49, 52, 54, 56, 57, 70, 71, 72, 73, 75, 76, 78 and 90 for documents responsive to these requests. There is also an application pending before the Court relating to this issue.

Regards,

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